



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7121 OF 2026

(An application under Articles 226 and 227 of the Constitution of India)

1. Manjushree Prusti
2. Vedavyas Prusti
3. Chandramani Prusti **Petitioners**

-Versus-

1. Special Land Acquisition Officer,
Talcher-Sambalpur Rail Link,
Sambalpur
2. The Deputy Chief Engineer (Construction),
East Coast Railway, Khetrajpur,
Sambalpur **Opp. Parties**

Advocates appeared:

For Petitioners : Mr. Rabindra Nath Debata, Advocate

For Opp. Party No.1: Mr. Swayambhu Mishra,
Additional Standing Counsel

For Opp. Party No.2: None

CORAM :

MR. JUSTICE K.R. MOHAPATRA

MR. JUSTICE SANJAY KUMAR MISHRA

Heard and disposed of on 25.03.2026

JUDGMENT

By the Bench;

- 1.** This matter is taken up through hybrid mode.
- 2.** Petitioners in this writ application seeks to assail the order dated 16th August, 1995 (Annexure-2), passed by the learned Civil Judge (Senior Division), Sambalpur in L.A.



Case No.119 of 1991 by which, the reference under Section 18 of the Land Acquisition Act, 1894 (for brevity, 'the Act') was rejected for non-appearance of the applicant in the reference.

2.1. The Petitioners also pray for setting aside the order dated 13th February, 2025 (Annexure-6) passed by the learned Civil Judge (Senior Division), Rairakhol, Sambalpur in C.M.A. No.03 of 2022 filed under Section 151 of the Code of Civil Procedure, 1908 to recall the order dated 16th August, 1995 and to re-hear the reference under Section-18 of the Act afresh on merit.

3. Mr. Debata, learned counsel for the Petitioners submits that for acquisition of land of the predecessor of the Petitioners, namely, Nilamani Prusti, land acquisition case was initiated and an award under Section 11 of the Act was passed. The said Nilamani Prusti, being aggrieved by the quantum of compensation, filed an application to refer the matter to the Civil Court for enhancement of compensation. Accordingly, the matter was referred to the learned Sub-Judge, Sambalpur [subsequently re-designated as Civil Judge (Senior Division), Sambalpur] and L.A. Case No.119 of 1991 was registered under Section 18 of the Act in his file. The said Nilamani Prusti, on being noticed, appeared through his Counsel and sought for adjournment to file objection. The matter was lastly taken up on 16th August, 1995 on which date, neither said Nilamani Prusti nor his Counsel appeared.



As such, the reference was rejected by the impugned order under Annexure-2 (supra).

3.1. The Petitioners, being the legal heirs of the said Nilamani Prusti, were unaware of the order dated 16th August, 1995. Subsequently, husband of the Petitioner No.1, namely, Nilamani Prusti died. When L.A. Case No.123/2009 of 1991/2017 initiated at the instance of a co-villager and adjacent land owner, namely, Asadhu Deheri was disposed of, the Petitioners enquired about their case. They being the rustic villagers could not get any information instantly. Thus, they engaged an advocate and applied for certified copy of L.A. Case No.119 of 1991 on 29th June, 2022, which was made available to them on 23rd September, 2022. From the certified copy of the order sheet in L.A. Case No.119 of 1991, they came to know that learned Civil Judge (Senior Division), Sambalpur, vide order dated 16th August, 1995, had rejected the reference on the ground of non-appearance of the applicant in the reference. As such, the Petitioners filed C.M.A. No.03 of 2022 under Section 151 C.P.C. to recall order dated 16th August, 1995 passed in L.A. Case No.119 of 1991 and to re-hear the reference on merit.

3.2. It is further submitted by Mr. Debata, learned counsel for the Petitioners that the delay in filing the petition under Section 151 C.P.C. was not intentional and the circumstances were beyond the control of the Petitioners. They were unaware of the proceedings in L.A. Case No.119 of 1991 during life time of their predecessor, namely, Nilamani Prusti.



It is also stated that the learned advocate of Nilamani Prusti never intimated the proceedings in L.A. Case No.119 of 1991. Thus, they prayed for condoning the delay and to pass an order recalling the order dated 16th August, 1995 in L.A. Case No.119 of 1991.

3.3. It is also submitted by Mr. Debata, learned counsel for the Petitioners that when a reference is made under Section 18 of the Act, it could not have been rejected due to non-appearance of the applicant. It should have been answered on merit taking into consideration the material available before the Court. Learned Civil Judge (Senior Division), Sambalpur never made any endeavour in that regard. Thus, the impugned order dated 16th August, 1995, under Annexure-2 is not sustainable and is liable to be set aside. For that reason, learned Civil Judge (Senior Division), Rairakhol, under whose jurisdiction, the land in question situates, should have recalled the order dated 16th August, 1995 and provided an opportunity to the Petitioners to participate in the reference under Section 18 of the Act. He, therefore, prays for setting aside both the orders under Annexures-2 and 6 and to remit the matter to the learned Civil Judge (Senior Division), Rairakhol for hearing of the reference under Section 18 of the Act giving opportunity of hearing to the parties concerned.

4. Mr. Mishra, learned Additional Standing Counsel vehemently objects to the submission of Mr. Debata, learned counsel for the Petitioners. It is his submission that notice in the reference (L.A. Case No.119 of 1991) was issued to the



applicant, namely, Nilamani Prusti. He also appeared through his advocate. After appearance, said Nialamani Prusti sought for several adjournments to file objection, but, till 16th August, 1995, no objection could be filed in the said reference. Thus, apparently, no material was available before the learned Civil Judge (Senior Division), Sambalpur to answer the reference. Although the impugned order dated 16th August, 1995 is not suitably worded, but, by the said order, the award passed under Section 11 of the Act has been confirmed. As such, the Petitioners have a remedy under Section 54 of the Act to file an Appeal before this Court.

4.1. It is further submitted that learned Civil Judge (Senior Division), Rairakhol has also not committed any error in rejecting the petition under Section 151 of C.P.C., as the explanation for delay in filing the petition under Section 151 CPC were/~~was~~ neither sufficient nor proper. There is also no justification for condonation of delay of 27 years in filing such petition. He, therefore, submits that the writ petition is incompetent and is liable to be dismissed.

5. Although notice has not yet been issued in the matter, Mr. Debata, learned counsel for the Petitioners prays for final disposal of the writ petition stating that the issue involved in the matter is no more *res integra*. Mr. Mishra, learned Additional Standing Counsel also endorsed the same and submits that he has no objection if the writ petition is finally disposed of.



5.1. In view of the order proposed to be passed in this writ petition, keeping in mind that the reference under Section 18 of the Act was made in the year 1991 and the issue involved in the writ petition, this Court feels issuance of notice to the Opposite Party No.2 will further delay the matter and no fruitful purpose will be served awaiting response from the Opposite Party No.2.

6. In view of the above, this Court proceeds to adjudicate the writ petition.

7. Upon hearing learned counsel for the parties and on perusal of records, it appears that Nalamani Prusti, the applicant in the reference under Section 18 of the Act appeared through Mr. R.P. Kuanr and associates on 4th September, 1992. Thereafter, several adjournments were taken up to 13th April, 1995 for filing of objection by the applicant. The matter was taken up on 6th July, 1995, on which date, the matter could not be taken up due to transfer of the Presiding Officer and the case was posted to 16th August, 1995 for hearing of the case. On 16th August, 1995, the applicant, namely, Nilamani Prusti and his Advocate were absent on call and took no step. As such, the learned Civil Judge (Senior Division), Rairakhol rejected the reference.

8. Law is well-settled that when a reference is made to the competent Civil Court under Section 18 of the Act, it has to be answered on merit. Reference may be made to the case of ***Khajan Singh (dead) by his LRs –v- Union of India; AIR 2002 SC 726***. Apparently, order dated 16th August, 1995 was not



passed on merit. Due to absence of the applicant and his Advocate on call, the reference was rejected, which is contrary to the settled position of law. Learned Civil Judge, while rejecting the reference on merit failed to exercise the jurisdiction vested in him under the Act. It appears that no endeavor has been made in the instant case by learned Civil Judge to dispose of the reference on merit. Hence, the order dated 16th August, 1995 (Anexure-2) is not sustainable.

9. An application under Section 151 C.P.C was filed in the year 2022 by the present Petitioners, which was registered as CMA No.03 of 2022. On perusal of the petition under Section 151 CPC (Annexure-5), it appears that explanations for condonation of delay were offered. The main ground of delay in filing such application was that the Petitioners could not know about the rejection of the reference made. Learned Civil Judge (Senior Division), Rairakhol, while considering the petition under Section 151 of C.P.C, should have taken into consideration that a reference made under Section 18 of the Act should not have been rejected due to non-appearance of the applicant.

10. Written objection was filed to the petition under Section 151 CPC stating that the petition was filed with a delay of more than 20 years and thus, the petition should be dismissed. Objection on merit of the petition under Section 151 CPC was also made. This Court is not delving into the merit of the case of the Petitioners either in the petition under Section 151 CPC or in the reference under Section 18 of the Act. In the instant writ



petition, it is only being examined, whether the reference could have been rejected due to the absence of the applicant or his counsel and it has already been answered in favour of the Petitioners. Further, explanation offered for condonation of delay appears to be plausible as the circumstances mentioned therein indicate that the Petitioners were unaware about the rejection of the reference due to non-appearance of their predecessor. No material was also placed before learned Civil Court to disbelieve the explanation offered by the Petitioners for condonation of delay.

11. In that view of the matter, both the order dated 16th August, 1995 (Annexure-2) passed by learned Civil Judge (Senior Division), Sambalpur in L.A. Case No.119 of 1991 and order dated 13th February, 2025 (Annexure-6) passed by the learned Civil Judge (Senior Division), Rairakhol, Sambalpur in C.M.A. No.03 of 2022 are not sustainable and are set aside. Consequently, L.A. Case No.119 of 1991 is restored to its file and the matter is remitted back to the learned Civil Judge (Senior Division), Rairakhol. Accordingly, learned Civil Judge (Senior Division), Rairakhol, is directed to answer the reference on merit giving opportunity of hearing to the parties concerned.

12. Since no notice has been issued to Opposite Party No.2 namely, the Deputy Chief Engineer (Construction), East Coast Railway, Khetraipur in the district of Sambalpur, it is at liberty to seek variance of this judgment, if it feels aggrieved.



13. With the aforesaid observation and direction, the writ petition is disposed of. In the facts and circumstances of the case, there shall be no order as to costs.

Urgent certified copy of this judgment be granted on proper application.

(K.R. Mohapatra)
Judge

(S.K. Mishra)
Judge

*Orissa High Court, Cuttack,
Dated 25th March, 2026/Kanhu*